

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK  
MANHATTAN DIVISION**

----- X  
In re: Chapter: 11  
Case No.: 22-10943  
Voyager Digital Holdings, Inc., Judge: Michael E. Wiles  
Debtor.  
----- X

**OBJECTION TO PLAN CONFIRMATION**

THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWALT, INC., ALTERNATIVE LOAN TRUST 2005-38, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-38 as Serviced by Shellpoint Mortgage Servicing (the "Secured Creditor"), by its counsel, McCalla Raymer Leibert Pierce, LLC, states the following grounds as and for an Objection to Confirmation of Voyager Digital Holdings, Inc.'s Chapter 11 plan (the "Plan"):

1. Secured Creditor holds a perfected mortgage on the property commonly known as 37 Black Hawk, Irvine, California 92603 (the "Property"). On June 29, 2005, Michael G. Beason and Mickey L. Wiebe (collectively the "Borrower") received a loan in the principal sum of \$2,665,999.in exchange for a mortgage lien on the Property (the "Deed of Trust"). The Deed of Trust was recorded prepetition in the Orange County Clerk's office on or about July 1, 2005.

2. On or about January 5, 2023, Borrowers transferred title to the Property to Voyager Digital, LLC ("Debtor") via a Deed of Trust and Assignment of Rents recorded January 5, 2023(the "Deed"). A true copy of the recorded Deed is submitted herewith.

3. Upon being contacted by Secured Creditor about the title transfer, the undersigned contacted Debtor's counsel to confirm whether Debtor was authorized by the Court to take title to the Property and Debtor's counsel was unable to explain why Debtor took title to

the Property during this active bankruptcy case.

4. Given that the Property is title in Debtor's favor after commencement of the case and without any prior notice to Secured Creditor, Secured Creditor anticipates filing a proof of claim with arrears in excess of \$2,988,488.41 and on a total claim in excess of \$5,149,037.25.

5. If the title transfer was not authorized by this Court, said transfer should be void.

6. To the extent Debtor was authorized to take title to the Property, Secured Creditor's anticipated claim is not addressed in the Plan. Accordingly, Secured Creditor objects to Plan because it fails to properly address Secured Creditor's claim and to preserve any and all rights it may have.

WHEREFORE, Secured Creditor respectfully requests that the Court deny confirmation of the Debtors' Chapter 11 Plan for the reasons set forth above and for other relief as the Court may deem just and proper.

Dated: February 23, 2023

McCalla Raymer Leibert Pierce, LLC  
Attorneys for THE BANK OF NEW YORK  
MELLON FKA THE BANK OF NEW YORK,  
AS TRUSTEE FOR THE  
CERTIFICATEHOLDERS OF CWALT, INC.,  
ALTERNATIVE LOAN TRUST 2005-38,  
MORTGAGE PASS-THROUGH  
CERTIFICATES, SERIES 2005-38,

/s/Phillip Raymond

By: Phillip Raymond  
420 Lexington Avenue, Suite 840  
New York, NY 10170  
Phone: 732-692-6872  
Fax: /fx/  
NY\_ECF\_Notices@McCalla.com  
Attorneys for Secured Creditor

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK  
MANHATTAN DIVISION**

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In re: **OBJECTION TO PLAN**  
  
Voyager Digital Holdings, Inc., Chapter: 11  
Debtor. Case No.: 22-10943  
Judge: Hon. Michael E. Wiles  
----- X

**CERTIFICATION OF SERVICE**

I hereby certify that on, February 23, 2023, I caused the Objection to Plan to be electronically filed with the Clerk of the Bankruptcy Court using the CM/ECF system which sent notification of such filing to the following:

Richard C. Morrissey	United States Trustee	Email: <a href="mailto:richard.morrissey@usdoj.gov">richard.morrissey@usdoj.gov</a>
Mathew M. Murphy	Debtor's Attorney	Email: <a href="mailto:mattmurphy@paulhastings.com">mattmurphy@paulhastings.com</a>
Joshua Sussberg	Debtor's Attorney	Email: <a href="mailto:jsussberg@kirkland.com">jsussberg@kirkland.com</a>
Darren T. Azman	Official Committee of Unsecured Creditors	Email: <a href="mailto:dazman@mwe.com">dazman@mwe.com</a>

**See List of Creditors on next page for additional electronic notice parties**

And, I hereby certify that I caused the foregoing to be mailed by the United States Postal Service the document to the following non CM/ECF participants:

Debtors:  
Voyager Digital Holdings, Inc.  
33 Irving Place  
3rd Floor  
New York, NY 10003

Stretto Claims Agent  
8269 E. 23rd Avenue  
[www.stretto.com](http://www.stretto.com)  
Denver, CO 80238

Chambers:  
Judge Michael E. Wiles  
One Bowling Green  
New York, New York 10004

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Dated:

McCalla Raymer Leibert Pierce, LLC  
Attorneys for THE BANK OF NEW YORK  
MELLON FKA THE BANK OF NEW YORK,  
AS TRUSTEE FOR THE  
CERTIFICATEHOLDERS OF CWALT, INC.,  
ALTERNATIVE LOAN TRUST 2005-38,  
MORTGAGE PASS-THROUGH  
CERTIFICATES, SERIES 2005-38

By: Mayra Ladouceur

Legal Assistant

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0208-1  
Case 22-10943-mew  
Southern District of New York  
Manhattan  
Mon Feb 6 11:00:28 EST 2023

Alameda Research Ventures LLC  
2000 Centre Street, 4th Floor  
Berkeley, CA 94704-1223

Amano Global Holdings, Inc.  
1798 Hovenweep Road  
Wesley Chapel, FL 33543-7234

Cherokee Acquisition  
1384 Broadway  
Suite 906  
New York, NY 10018-6146

Emerald Ocean Isle, LLC  
1798 Hovenweep Road  
Wesley Chapel, FL 33543-7234

Epiq Corporate Restructuring, LLC  
777 Third Avenue, 12th Floor  
www.epiqglobal.com  
New York, NY 10017-1302

(p)FEDERAL TRADE COMMISSION  
ASSOCIATE DIRECTOR  
DIVISION OF ENFORCEMENT  
600 PENNSYLVANIA AVE NW MAIL DROP NJ-2122  
WASHINGTON DC 20580-0001

Illinois Secretary of State  
Illinois Secretary of State  
100 W Randolph, Floor 13  
Chicago, IL 60601-3273

Metropolitan Commercial Bank  
99 Park Avenue  
12th Floor  
New York, NY 10016-1374

New York State Department of Financial Servi  
One State Street  
New York, NY 10004-1561

Oracle America, Inc.  
Buchaler PC  
c/o Shawn M. Christianson, Esq.  
425 Market St., Suite 2900  
San Francisco, Ca 94105-2491

State of Washington  
Department of Financial Institutions  
Office of Attorney General - GCE  
1125 Washington Street SE  
PO Box 40100  
Olympia, WA 98504-0100

State of Wisconsin - Dep't of Financial  
17 West Main  
P.O. Box 7857  
Madison, WI 53707-7857

TN Dept of Commerce and Insurance  
c/o TN Attorney General's Office,  
Bankruptcy Division  
PO Box 20207  
Nashville, TN 37202-4015

TN Dept of Revenue  
c/o TN Attorney General's Office  
Bankruptcy Division  
PO Box 20207  
Nashville, TN 37202-4015

Texas Department of Banking  
c/o Office of the Texas Attorney General  
Bankruptcy & Collections Division  
P. O. Box 12548  
Austin, TX 78711-2548

Texas State Securities Board  
c/o Texas Attorney General  
Bankruptcy & Collections Division  
PO Box 12548  
Austin, TX 78711-2548

U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-2001

United States Trustee  
Office of the United States Trustee - NY  
Alexander Hamilton Custom House  
One Bowling Green, Room 534  
New York, NY 10004-1459

Voyager Digital Holdings, Inc.  
33 Irving Place  
3rd Floor  
New York, NY 10003-2332

Voyager Digital, LLC  
78 SW 7th Street  
8th Floor  
Miami, FL 33130-3402

Manhattan Division  
One Bowling Green  
New York, NY 10004-1415

1109 Love Ct  
Virginia Beach, VA 23464-5011

2813 S Kildare Ave  
Chicago, IL 60623-4351

3204 Crescent dr  
United States  
Killeen, TX 76543-2846

3551 Admiral Drive  
North Charleston, SC 29405-7702

A. Manny Alicandro  
Attorney for Creditor Jon Giacobbe  
11 Broadway, Suite 615  
New York, NY 10004-1490

ALAH SHEHADEH  
P.O BOX 2454  
ORLAND PARK, IL 60462-1089

ANGEL MOON  
1617 VIA LAZO  
PALOS VERDES ESTATES, CA 90274-1247

Abigail R. Ryan  
Assistant Attorneys General  
Office of the Attorney General of Texas  
Bankruptcy & Collections Division  
P. O. Box 12548  
Austin, Texas 78711-2548

Adam J. Goldberg  
Nacif Taousse  
Jonathan J. Weichselbaum  
LATHAM & WATKINS LLP  
1271 Avenue of the Americas  
New York, NY 10020-1300

Alan J. Kornfeld  
PACHULSKI STANG ZIEHL & JONES LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067-4114

Amanda Brennan  
1503 Largo Rd  
Unit 103  
HENRICO, VA 23238-4509

Angelina E. Lim, Esq.  
Johnson, Pope, Bokor, Ruppel & Burns, LL  
401 E. Jackson Street, Suite 3100  
Tampa, FL 33602-5228

Armando Bojorges  
2813 S Kildare Ave  
Chicago, IL 60623-4351

Brian Mark Wilson  
1931 Wagner Road  
Batavia, IL 60510-9011

Bryan Florence  
204 Birch Avenue  
LaGrange, KY 40031-1308

Chris D. Barski, Esq.  
BARSKI LAW PLC  
9375 E. Shea Blvd., Ste. 100  
Scottsdale, Arizona 85260-6986

Crystal Spithaler  
2506 Brandy Lane  
Accokeek, MD 20607-3736

DC Department of Insurance, Securities, & Ba  
400 6th Street, N.W.  
United States  
Washington, DC 20001-0189

DENTON YIP  
1617 VIA LAZO  
PALOS VERDES ESTATES 90274-1247

Dallas Hynes  
610 Sylvan Heights Way  
Apt. 347  
Nashville, TN 37209-4990

Dalton Vanderbyl  
4512 N 198th Avenue  
Litchfield AZ 85340-4577

David M. Posner, Esq.  
Kelly Moynihan, Esq.  
KILPATRICK TOWNSEND & STOCKTON LLP  
The Grace Building  
1114 Avenue of the Americas  
New York, NY 10036-7703

Debra I. Grassgreen  
PACHULSKI STANG ZIEHL & JONES LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067-4114

Douglas T. Tabachnik, Esq.  
Law Offices of Douglas T. Tabachnik, P.C  
63 West Main Street, Suite C  
Freehold, NJ 07728-2141

Fabian Diego Garcia  
10575 Boston Street  
Henderson, CO 80640-7754

Georgi Nikolov Georgiev  
3040 Courtside Dr  
ROSEVILLE, CA 95661-7918

Hector Calderon  
1704 Gentle Wind Drive  
Arlington, TX 76018-1846

J. Robert Forshey  
Forshey & Prostok LLP  
777 Main Street, Suite 1550  
Fort Worth, TX 76102-5384

JASON D. ST. JOHN  
Assistant Deputy Superintendent  
Consumer Protection and Financial Enforc  
New York State Department of Financial S  
One State Street.  
New York, New York 10004-1511

Jacob ryan Redburn  
29686 west 274th street  
Paola, KS 66071-4101

Jaffe Raitt Heuer & Weiss, P.C.  
Attn: Paul R. Hage  
27777 Franklin Road, Suite 2500  
Southfield, MI 48034-8214

Jamie Rehlaender  
1417 NE Thompson St  
Unit 1  
Portland, OR 97212-4203

Jason B. Binford  
Assistant Attorneys General  
Office of the Attorney General of Texas  
Bankruptcy & Collections Division  
P. O. Box 12548  
Austin, Texas 78711-2548

Jason H. Rosell  
PACHULSKI STANG ZIEHL & JONES LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067-4114

Jeffrey Bernstein, Esq.  
MCELROY, DEUTSCH, MULVANEY &  
CARPENTER, LLP  
570 Broad Street  
Newark, NJ 07102-4560

Jennifer Rood, Esq.  
Assistant General Counsel  
Vermont Department of Financial Regulati  
89 Main Street, Third Floor  
Montpelier, VT 05620-0009

Joanne Gelfand  
AKERMAN LLP  
1251 Avenue of the Americas  
37th Floor  
New York, New York 10020-1104

John H. Thompson  
AKERMAN LLP  
1251 Avenue of the Americas,  
37th Floor  
New York, New York 10020-1104

John J. Calandra, Joseph B. Evans, Gregg Ste  
Grayson Williams  
McDermott Will & Emery LLP  
One Vanderbilt Ave.  
New York, New York 10017-3807

John P. Reding Pg 7 of 18  
Assistant Attorney General  
Office of the Illinois Attorney General  
100 W. Randolph St, Fl. 13  
Chicago, IL 60601-3218

KEVIN R. PUVALOWSKI  
Acting Executive Deputy Superintendent  
Consumer Protection and Financial Enforc  
New York State Department of Financial S  
One State Street  
New York, New York 10004-1511

Karen Cordry  
Bankruptcy Counsel  
National Association of Attorneys Genera  
1850 M St., NW, 12th Floor  
Washington, DC 20036-5882

Keith Dorio  
Po Box 121  
Roswell, GA 30077-0121

Kelleher Place Management, LLC  
c/o Aaron L. Hammer, Esq.  
Nathan E. Delman, Esq.  
Horwood Marcus & Berk Chartered  
500 W. Madison St., Suite 3700  
Chicago, IL 60661-4591

Kimberly Bohle  
5775 Del Rey Avenue  
Las Vegas, NV 89146-1201

LINDA DONAHUE  
Deputy General Counsel for Litigation  
New York State Department of Financial S  
One State Street.  
New York, New York 10004-1511

Lacyanna Leong  
5309 Mossy Stone Way  
Rancho Cordova, CA 95742-8152

Layla D. Milligan  
Assistant Attorneys General  
Office of the Attorney General of Texas  
Bankruptcy & Collections Division  
P. O. Box 12548  
Austin, Texas 78711-2548

Lisa Snyders  
c/o Angelina E. Lim, Esq.  
Johnson Pope  
401 E. Jackson St Ste 3100  
Tampa, FL 33602-5228

Lysbeth George  
LIZ GEORGE AND ASSOCIATES  
8101 S. Walker, Suite F  
Oklahoma City, Oklahoma 73139-9406

MCDERMOTT WILL & EMERY LLP  
Gregg Steinman  
333 SE 2nd Avenue, Suite 4500  
Miami, FL 33131-2184

MCDERMOTT WILL & EMERY LLP  
John J. Calandra  
Joseph B. Evans  
One Vanderbilt Avenue  
New York, NY 10017-3807

MD Mahamudul Hasan  
71 Jefferson Ave. Apt. # 1  
Brooklyn, NY 11216-5947

MINTZ & GOLD LLP  
Attn: Andrew R. Gottesman, Esq.  
600 Third Avenue, 25th Floor  
New York, New York 10016-1910

Marcum LLP  
c/o/ Mintz & Gold LLP  
600 Third Ave, 25th Floor  
NY, NY 10016-1910  
Attn: Andrew R. Gottesman, Esq.

Mary Harristakis  
18171 Bigelow Park  
United States  
Tustin, CA 92780-2201

Matthew E. McClintock, Esq.  
Harley Goldstein, Esq.  
Steve Yachik, Esq.  
Goldstein & McClintock LLLP  
111 W Washington Street, Suite 1221  
Chicago, IL 60602-3482

McDermott Will & Emery LLP  
Charles R. Gibbs  
2501 North Harwood Street  
Suite 1900  
Dallas, TX 75201-1664

McDermott Will & Emery LLP  
Darren Azman  
One Vanderbilt Avenue  
New York, NY 10017-3807

Murphy Place Management, LLC  
c/o Horwood Marcus & Berk Chartered  
500 W. Madison St., Ste 3700  
Chicago, IL 60661-4591

Nancy Alper  
400 6th Street, N.W.  
Washington 20001-0189

Natl Assn of Attys General  
1850 M St., NW, 12th Fl  
Washington, DC 20036-5882

Nicholas R. Oleski  
MCCARTHY, LEBIT, CRYSTAL & LIFFMAN CO.,  
1111 Superior Avenue East  
Suite 2700  
Cleveland, Ohio 44114-2519

Nicole Leonard, Esq.  
MCELROY, DEUTSCH, MULVANEY & CARPENTER,  
225 Liberty Street, 36th Floor  
New York, NY 10281-5001

Oracle America, Inc.  
c/o Shawn M. Christianson, Esq.  
Buchalter PC  
425 Market St., Suite 2900  
San Francisco, CA 94105-2491

R. Adam Swick  
AKERMAN LLP  
1251 Avenue of the Americas  
37th Floor  
New York, New York 10020-1104

Randall A. Pulman  
PULMAN, CAPPUCCIO, & PULLEN, LLP  
2161 NW Military Highway, Suite 400  
San Antonio, Texas 78213-1844

Richard M. Pachulski  
PACHULSKI STANG ZIEHL & JONES LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067-4114

Robert R. Kracht  
MCCARTHY, LEBIT, CRYSTAL & LIFFMAN CO.,  
1111 Superior Avenue East  
Suite 2700  
Cleveland, Ohio 44114-2519

Robert Snyders  
c/o Angelina E. Lim, Esq.  
Johnson Pope  
401 E. Jackson St. Suite 3100  
Tampa, FL 33602-5228

Rod F Sweis  
7413 Margerum Ave  
San Diego, CA 92120-2015

Roma N. Desai  
Assistant Attorneys General  
Office of the Attorney General of Texas  
Bankruptcy & Collections Division  
P. O. Box 12548  
Austin, Texas 78711-2548

Ryan Hourigan  
823 N Ambrosia  
Mesa 85205-5464

(p)SHAWN M CHRISTIANSON  
ATTN BUCHALTER PC  
ATTN SHAWN M CHRISTIANSON  
425 MARKET ST SUITE 2900  
SAN FRANCISCO CA 94105-2491

Sheryl P. Giugliano, Esq.  
Ruskin Moscou Faltischek, P.C.  
1425 RXR Plaza, 15th Floor  
Uniondale, NY 11556-3807

Sigmund S. Wissner-Gross, Esq.  
Kenneth J. Aulet, Esq.  
BROWN RUDNICK LLP  
Seven Times Square  
New York, New York 10036-6548

Stephen A. Best  
Rachel O. Wolkinson  
601 Thirteenth Street NW Suite 600  
Washington, D.C. 20005-3807

Stephen Manning  
Assistant Attorney General  
Office of the Attorney General of Washin  
P. O. Box 40100  
Olympia, WA 98504-4010

Steve Laird  
c/o J. Robert Forshey  
Forshey & Prostok, LLP  
777 Main Street, Suite 1550  
Fort Worth, Texas 76102-5384

TN Dept of Commerce and Insurance  
c/o TN Attorney General's Office,  
Bankruptcy Division  
PO Box 20207  
Nashville, Tennessee 37202-4015

Travis Shaver  
3551 Admiral Drive  
North Charleston, SC 29405-7702

Vermont Department of Financial Regulation  
89 Main Street  
Montpelier, VT 05620-0009

Vincent Mountney  
315 Central Ave  
Glenside, PA 19038-2214

Virginia T. Shea, Esq.  
MCELROY, DEUTSCH, MULVANEY & CARPENTER,  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075

Wells Fargo Bank, N.A.  
c/oGregory A. Wallach  
ALDRIDGE PITE, LLP  
Fifteen Piedmont Center  
3575 Piedmont Road, N.E.  
Atlanta, GA 30305-1636

William Holder  
4330 Locke Street  
Zachary, LA 70791-3916

Adam Lavine  
1798 Hovenweep Road  
Wesley Chapel, FL 33543-7234

Chris Barski  
Barski Law PLC  
9375 E. Shea Blvd. Suite 100  
Scottsdale, AZ 85260-6986

Joshua Sussberg  
Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, NY 10022-4643

Karen Cordry  
National Assn of Attorneys General  
1850 M St., NW  
12th Floor  
Washington, DC 20036-5882

Lisa Snyders  
4819 Longwater Way  
Tampa, FL 33615-4216

Matthew Edwards  
c/o Liz George and Associates  
8101 S Walker, Suite F  
Oklahoma City, OK 73139-9406

Matthew E. McClintock  
Goldstein & McClintock LLLP  
111 W Washington Street, Suite 1221  
Chicago, IL 60602-3482

Matthew M. Murphy  
Paul Hastings LLP  
71 S. Wacker Drive  
Forty-Fifth Floor  
Chicago, IL 60606

Michael Legg  
300 Crest Road  
Ridgewood, NJ 07450-2437

Michael Simari  
9 Nathan Pratt Drive, Unit 1  
Concord, MA 01742-4645

Robert Snyders  
4819 Longwater Way  
Tampa, FL 33615-4216

Shingo Lavine  
1798 Hovenweep Road  
Wesley Chapel, FL 33543-7234



The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

Federal Trade Commission  
600 Pennsylvania Ave., NW  
CC-9528  
Washington, DC 20580

Shawn M. Christianson, Esq.  
Buchalter, A Professional Corporation  
425 Market St., Suite 2900  
San Francisco, CA 94105

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(u)Ad Hoc Group of Equity Interest Holders of

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(u)Alameda Ventures Ltd.  
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Eden Island Seychelles

(u)BAM Trading Services Inc. d/b/a Binance.US

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Akin Gump Strauss Hauer & Feld LLP  
One Bryant Park  
New York

(u)Dallas Basketball Limited, d/b/a Dallas Ma

(u)David.

(u)Georgia Department of Banking and Finance

(u)Kelleher Place Management, LLC

(u)Marcum LLP

(u)Matthew D. Ray, Independent Director of Vo

(u)Matthew Levitt & The Levitt Group

(u)Murphy Place Management LLC

(u)Official Committee Of Unsecured Creditors

(u)Paul Hastings LLP

(u)The New Jersey Bureau of Securities

(d)U.S. Securities and Exchange Commission  
100 F. Street, NE  
Washington, DC 20549-2001

(u)USIO, Inc.

(u)United States Of America

(u)VT Department of Financial Regulation

(d)Voyager Digital Holdings, Inc.

33 Irving Place

3rd Floor

New York, NY 10003-2332

Pg 10 of 18

(u)Wells Fargo Bank, N.A.

(d)Jeffrey Bernstein, Esq.  
MCELROY, DEUTSCH, MULVANEY & CARPENTER,  
570 Broad Street  
Newark, NJ 07102-4560

(u)Karen Cordry- AL, AR, CA, DC, HI, ME, ND,

(d)TN Dept of Commerce and Insurance  
c/o TN Attorney General's Office,  
Bankruptcy Division  
PO Box 20207  
Nashville, TN 37202-4015

(u)Aaron Niman

(u)Aaron Sherbondy

(u)Alah Shehadeh

(u)Alfred Gentilini

(u)Alireza Johartchi

(u)Amy Brown

(u)Analia V.

(u)Analia Van

(u)Andrew Rizk

(u)Aristea Theodoropoulos

(u)Aristea Theodoropoulos

(u)Aunali S. Khaku

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(u)Christine Marcy

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(u)Jon Quezada

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(u)Lisa Dagnoli

(u)Marc Ruiz

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(u)Michelle D. DiVita

(u)Nick Nardone

(u)Ryan Bednarski

(u)Ryan Hourigan

(u)Sariena Carmichael

(u)Seth Jones

(u)Shikar S. Partab

(u)Steve Laird

(u)Steven D.

(u)Thomas N. Gibson

(u)Tracy Hendershott

(u)Trevor Brucker

(u)Vincent T. Sasso

(u)William George

(u)Xiang Chi

(u)Xiaojie Dai

(u)Zainab Ali

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**Recipient Information**

**To: BK DEPT**  
**Fax #: 16195683518**

**Sender Information**

**From: Gilbert Badillo**  
**Company: GBI Diversified, LLC**  
**Email address: BRUCEBERT2022@GMAIL.COM (from 23.240.61.74)**  
**Phone #: 9495661502**  
**Sent on: Monday, January 9 2023 at 2:48 AM EST**

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**DEED OF TRUST AND ASSIGNMENT OF RENTS**

This **DEED OF TRUST**, made January 5, 2023, between MICHAEL G. BEASON, MICKEY L. WIEBE, herein called Trustor, whose address is 37 BLACK HAWK, IRVINE, CA 92603 and FIRST AMERICAN TITLE COMPANY herein called TRUSTEE, and VOYAGER DIGITAL, LLC, herein called BENEFICIARY,

**WITNESSETH:** That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS TO TRUSTEE IN TRUST, WITH POWER OF SALE, that property in the County of ORANGE, State of California, described as:

See attached Exhibit A

Commonly known as (37 BLACK HAWK, IRVINE, CA 92603)

**TOGETHER WITH** the rents, issues and profits thereof, SUBJECT, HOWEVER, to the right, power and authority hereinafter given to and conferred upon Beneficiary by paragraph (10) of the provisions incorporated herein by reference to collect and apply such rents, issues and profits.

**For the Purpose of Securing:** (1) Performance of each agreement of Trustor incorporated by reference or contained herein. (2) Payment of the indebtedness evidenced by one promissory note of even date herewith, and any extension or renewal thereof, in the **PRINCIPAL SUM OF \$45,000.00** executed by Trustor in favor of Beneficiary or order. (3) Payment of such further sums as the then record owner of said property hereafter may borrow from Beneficiary, when evidenced by another note (or notes) reciting it so secured.

The following is a copy of provisions (1) to (14), inclusive, of the fictitious Deed of Trust, recorded in each county in California, as stated in the foregoing Deed of Trust and incorporated by reference in said Deed of Trust as being a part thereof as set forth at length therein.

**To protect the Security of this Deed of Trust, Trustor Agrees:**

- (1) To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.
- (2) To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
- (3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed.
- (4) To pay: at least ten days before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do, without notice to or demand upon Trustor, and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

(5) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

(6) That any award of damages in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such monies received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

(7) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(8) That at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

(9) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto". Five years after issuance of such full reconveyance, Trustee may destroy said note and this Deed (unless directed in such request to retain them).

(10) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving onto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(11) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed, said note and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

(12) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.

(13) That this Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the note secured hereby, whether or not named as Beneficiary herein. In this Deed, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

(14) That Trustee accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

Dated JANUARY 5, 2023

MICHAEL G. BEASON

Dated JANUARY 5, 2023

MICKY L. WIEBE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF Orange

On 01/05/2023 before me Yunjeong Jeong, Notary Public,

personally appeared Michael G. Beason & Mickey L. Wiebe who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Jeong



SPACE ABOVE RESERVED FOR NOTARY SEAL



## EXHIBIT "A"

## LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of ORANGE, City of IRVINE, described as follows:

## PARCEL 1:

LOT 55, TRACT 15941, IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 809 PAGES 13 THROUGH 32 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THEREFROM, ALL OIL, OIL RIGHTS, NATURAL GAS RIGHTS, MINERAL RIGHTS AND OTHER HYDROCARBON SUBSTANCES BY WHATEVER NAME KNOWN, TOGETHER WITH APPURTENANT RIGHTS THERETO, WITHOUT, HOWEVER, ANY RIGHT TO ENTER UPON THE SURFACE OF SAID LAND NOR ANY PORTION OF THE SUBSURFACE LYING ABOVE A DEPTH OF 500 FEET, AS EXCEPTED OR RESERVED IN INSTRUMENTS OF RECORD.

EXCEPT THEREFROM ALL UNDERGROUND WATER LYING BENEATH SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY TO THE SURFACE THEREOF FOR THE PURPOSE OF PROCURING WATER AS RESERVED UPON THE MAP OF SAID LAND.

## PARCEL 2:

NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, ACCESS, MAINTENANCE, REPAIRS, DRAINAGE, ENCROACHMENT, USE AND ENJOYMENT AS DESCRIBED IN THE MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR SHADY CANYON (MASTER DECLARATION) RECORDED MARCH 7, 2001 AS INSTRUMENT NO. 20010128871 AND/OR IN THE NOTICE OF ANNEXATION TO SHADY CANYON (PHASE 3 CUSTOM) (NOTICE OF ANNEXATION) RECORDED AUGUST 29, 2001 AS INSTRUMENT NO. 2001-0604047 BOTH OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

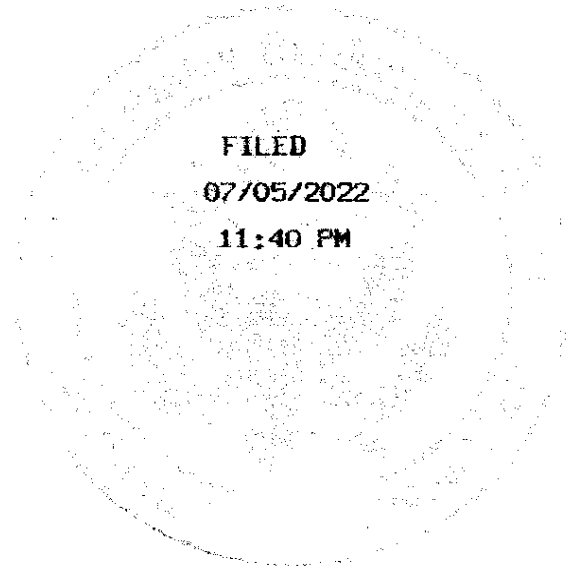
End of Legal Description

United States Bankruptcy Court  
Southern District of New York

**Notice of Bankruptcy Case Filing**

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 11 of the United States Bankruptcy Code, entered on 07/05/2022 at 11:40 PM and filed on 07/05/2022.

**Voyager Digital, LLC**  
78 SW 7th Street  
8th Floor  
Miami, FL 33130  
Tax ID / EIN: 82-4138013



The case was filed by the debtor's attorney:

**Joshua Sussberg**  
Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, NY 10022  
(212) 446-4800

The case was assigned case number 22-10945-mew to Judge Michael E. Wiles.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page <http://ecf.nysb.uscourts.gov> or at the Clerk's Office, One Bowling Green, New York, NY 10004-1408.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

**Vito Genna**  
Clerk, U.S. Bankruptcy Court